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CLERK OF THE COURT
U.S. DISTRICT COURT
OLD SAN JUAN PR

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

BAYER AG, et al.,

Plaintiffs,

v.

BIOVAIL LABORATORIES, INC.,
et al.,

Defendants.

CIVIL NO. 98-1282 (RLA)
CIVIL NO. 98-1340 (RLA)
CIVIL NO. 98-1494 (RLA)
CIVIL NO. 98-1768 (RLA)
CIVIL NO. 01-1205 (RLA)
CIVIL NO. 01-1206 (RLA)

ORDER LIFTING STAY
DENYING OUTSTANDING MOTIONS
AND SETTING DISCOVERY DEADLINES

The court having reviewed the parties' motions¹ as well as the decision in Bayer AG and Bayer Corp. v. Biovail Corp., 279 F.3d 1340 (Fed. Cir. 2002) hereby ORDERS that the stay previously issued in these consolidated actions be **LIFTED** and that all outstanding motions be and the same are hereby **DENIED WITHOUT PREJUDICE**.

The court further finds that judicial economy dictates that claim construction of Bayer's '446 patent claims be initially addressed and that resolution of the infringement issue be held in abeyance in the meantime.

¹ See Plaintiffs Bayer AG... Informative Motion and Position on Further Proceedings in these Consolidated Cases, filed on November 15, 2002 (docket No. **154**) and Defendants' Informative Motion and Position on Further Proceedings in these Consolidated Cases, filed on December 2, 2002 (docket No. **155**).

14
NA

156

CIVIL NO. 98-1282 (RLA)

Page 2

Accordingly, the court adopts defendants' suggestion that discovery at this time be limited to whether the term "effective amount of nifedipine crystals with [or having] a specific surface area ["SSA"] of 1.0 to 4.0 m²/g" requires that the SSA of nifedipine raw material be measured by the BET gas absorption method **before** the nifedipine is manufactured into tablets.

The following deadlines are hereby set for the aforementioned discovery:

4/1/03 Deadline for the parties to exchange expert reports on the issue of claim construction.

5/15/03 Deadline to conclude expert depositions.

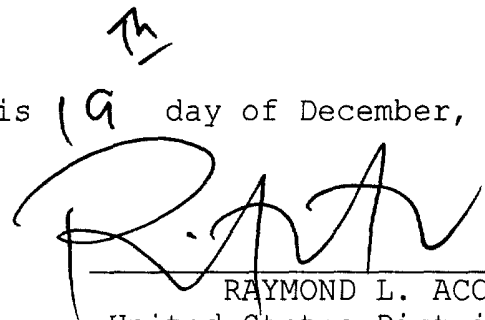
6/30/02 Deadline for the parties to exchange claim construction memoranda.

7/18/03 Deadline for the parties to exchange claim construction response briefs.

Once the issue has been briefed the court shall schedule the pertinent hearing.

IT IS SO ORDERED.

San Juan, Puerto Rico, this 19 day of December, 2002.


RAYMOND L. ACOSTA
United States District Judge